

**BEFORE THE
MEDICAL BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

| | | |
|--|---|---------------------------------|
| In the Matter of the Accusation |) | |
| Against: |) | |
| |) | |
| |) | |
| JOHN J. MARTINEZ, M.D. |) | Case No. 800-2014-008050 |
| |) | |
| Physician's and Surgeon's |) | |
| Certificate No. G58835 |) | |
| |) | |
| Respondent |) | |
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DECISION

The attached Stipulated Settlement and Disciplinary Order is hereby adopted as the Decision and Order of the Medical Board of California, Department of Consumer Affairs, State of California.

This Decision shall become effective at 5:00 p.m. on September 14, 2017.

IT IS SO ORDERED August 15, 2017.

MEDICAL BOARD OF CALIFORNIA

By: *Michelle Anne Bholat M.D.*
**Michelle Anne Bholat, M.D., Chair
Panel B**

1 XAVIER BECERRA
Attorney General of California
2 MATTHEW M. DAVIS
Supervising Deputy Attorney General
3 TESSA L. HEUNIS
Deputy Attorney General
4 State Bar No. 241559
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8 *Attorneys for Complainant*

9
10 **BEFORE THE**
11 **MEDICAL BOARD OF CALIFORNIA**
12 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

13 In the Matter of the Accusation Against:

14 **JOHN J. MARTINEZ, M.D.,**
15 **817 North Eastman Avenue**
Los Angeles, CA 90063

16 **Physicians and Surgeon's Certificate**
17 **No. G 58835**

18 Respondent.

Case No. 800-2014-008050

OAH No. 2016090380

**STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER**

19 IT IS HEREBY STIPULATED AND AGREED by and between the parties to the above-
20 entitled proceedings that the following matters are true:

21 **PARTIES**

22 1. Kimberly Kirchmeyer (Complainant) is the Executive Director of the Medical Board
23 of California (Board). She brought this action solely in her official capacity and is represented in
24 this matter by Xavier Becerra, Attorney General of the State of California, by Tessa L. Heunis,
25 Deputy Attorney General.

26 2. Respondent John J. Martinez, M.D. (Respondent) is represented in this proceeding by
27 attorney Anthony F. Witteman Esq., whose address is: 535 Anton Boulevard, 9th Fl., Costa
28 Mesa, California 92626.

1 **ADDITIONAL PROVISIONS**

2 12. The parties understand and agree that Portable Document Format (PDF) and facsimile
3 copies of this Stipulated Settlement and Disciplinary Order, including PDF and facsimile
4 signatures thereto, shall have the same force and effect.

5 13. This Stipulated Settlement and Disciplinary Order is intended by the parties herein to
6 be an integrated writing representing the complete, final and exclusive embodiment of the
7 agreements of the parties in the above-entitled matter.

8 14. In consideration of the foregoing admissions and stipulations, the parties agree the
9 Board may, without further notice to or opportunity to be heard by respondent, issue and enter the
10 following Disciplinary Order:

11 **DISCIPLINARY ORDER**

12 A. **PUBLIC REPRIMAND**

13 IT IS HEREBY ORDERED that respondent John J. Martinez, M.D., Physician's and
14 Surgeon's Certificate No. G 58835, shall be and is hereby Publicly Reprimanded pursuant to
15 California Business and Professions Code section 2227, subdivision (a)(4). This Public
16 Reprimand, which is issued in connection with respondent's violations of the Medical Practice
17 Act as set forth in Accusation No. 800-2014-008050, is as follows:

18 On or about April 9, 2015, you were convicted of one or more offenses
19 substantially related to the qualifications, functions, or duties of a physician and
20 surgeon, and engaged in general unprofessional conduct, as more fully described in
21 Accusation No. 800-2014-008050.

22 B. **PROFESSIONALISM PROGRAM (ETHICS COURSE)**

23 Within 60 calendar days of the effective date of this Decision, respondent shall enroll
24 in a professionalism program, that meets the requirements of Title 16, California Code of
25 Regulations (CCR) section 1358.1. Respondent shall participate in and successfully complete
26 that program. Respondent shall provide any information and documents that the program may
27 deem pertinent. Respondent shall successfully complete the classroom component of the program
28 not later than six (6) months after respondent's initial enrollment, and the longitudinal component

1 of the program not later than the time specified by the program, but no later than one (1) year
2 after attending the classroom component. The professionalism program shall be at respondent's
3 expense and shall be in addition to the Continuing Medical Education (CME) requirements for
4 renewal of licensure.

5 A professionalism program taken after the acts that gave rise to the charges in the
6 Accusation, but prior to the effective date of the Decision may, in the sole discretion of the Board
7 or its designee, be accepted towards the fulfillment of this condition if the program would have
8 been approved by the Board or its designee had the program been taken after the effective date of
9 this Decision.

10 Respondent shall submit a certification of successful completion to the Board or its
11 designee not later than 15 calendar days after successfully completing the program or not later
12 than 15 calendar days after the effective date of the Decision, whichever is later.

13 **ACCEPTANCE**

14 I, John J. Martinez, M.D., have carefully read this Stipulated Settlement and Disciplinary
15 Order and, having the benefit of counsel, enter into it freely, voluntarily, intelligently, and with
16 full knowledge of its force and effect on my Physician's and Surgeon's Certificate No. G 58835.

17 I fully understand that, after signing this stipulation, I may not withdraw from it, that it shall
18 be submitted to the Medical Board of California for its consideration, and that the Board shall
19 have a reasonable period of time to consider and act on this stipulation after receiving it. By
20 entering into this stipulation, I fully understand that, upon formal acceptance by the Board, I shall
21 be publically reprimanded by the Board and shall be required to comply with all of the terms and
22 conditions of the Disciplinary Order set forth above. I also fully understand that any failure to
23 comply with the terms and conditions of the Disciplinary Order set forth above shall constitute
24 unprofessional conduct and will subject my Physician's and Surgeon's Certificate No. G 58835 to
25 disciplinary action.

26 DATED: _____

4/18/2017

27 
JOHN J. MARTINEZ, M.D.
Respondent

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I have read and fully discussed with Respondent John J. Martinez, M.D., the terms and conditions and other matters contained in the above Stipulated Settlement and Disciplinary Order. I approve its form and content.

DATED: April 19, 2017


ANTHONY F. WITTEMAN ESQ.
Attorney for Respondent

ENDORSEMENT

The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully submitted for consideration by the Medical Board of California.

Dated: April 21, 2017

Respectfully submitted,

XAVIER BECERRA
Attorney General of California
MATTHEW M. DAVIS
Supervising Deputy Attorney General


TESSA L. HEUNIS
Deputy Attorney General
Attorneys for Complainant

Exhibit A

Accusation No. 800-2014-008050

1 KAMALA D. HARRIS
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2 MATTHEW M. DAVIS
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8 *Attorneys for Complainant*

FILED
STATE OF CALIFORNIA
MEDICAL BOARD OF CALIFORNIA
SACRAMENTO April 20, 2016
BY *[Signature]* ANALYST

BEFORE THE
MEDICAL BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

13 In the Matter of the Accusation Against:
14 **JOHN J. MARTINEZ, M.D.**
15 **817 North Eastman Avenue**
Los Angeles, CA 90063
16 **Physician's and Surgeon's Certificate**
17 **No. G 58835,**
18 Respondent.

Case No. 800-2014-008050
ACCUSATION

19 Complainant alleges:

20 **PARTIES**

- 21 1. Kimberly Kirchmeyer (complainant) brings this Accusation solely in her official
22 capacity as the Executive Director of the Medical Board of California, Department of Consumer
23 Affairs (Board).
24 2. On or about October 6, 1986, the Board issued Physician's and Surgeon's Certificate
25 Number G 58835 to John J. Martinez, M.D. (respondent). The Physician's and Surgeon's
26 Certificate was in full force and effect at all times relevant to the charges and allegations brought
27 herein and will expire on June 30, 2016, unless renewed.

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JURISDICTION

1
2 3. This Accusation is brought before the Board, under the authority of the following
3 laws. All section references are to the Business and Professions Code unless otherwise indicated.

4 4. Section 2227 of the Code states:

5 “(a) A licensee whose matter has been heard by an administrative law judge of the
6 Medical Quality Hearing Panel as designated in Section 11371 of the Government Code, or
7 whose default has been entered, and who is found guilty, or who has entered into a
8 stipulation for disciplinary action with the board, may, in accordance with the provisions of
9 this chapter:

10 “(1) Have his or her license revoked upon order of the board.

11 “(2) Have his or her right to practice suspended for a period not to exceed one year
12 upon order of the board.

13 “(3) Be placed on probation and be required to pay the costs of probation monitoring
14 upon order of the board.

15 “(4) Be publicly reprimanded by the board. The public reprimand may include a
16 requirement that the licensee complete relevant educational courses approved by the board.

17 “(5) Have any other action taken in relation to discipline as part of an order of
18 probation, as the board or an administrative law judge may deem proper.

19 “(b) Any matter heard pursuant to subdivision (a), except for warning letters, medical
20 review or advisory conferences, professional competency examinations, continuing
21 education activities, and cost reimbursement associated therewith that are agreed to with the
22 board and successfully completed by the licensee, or other matters made confidential or
23 privileged by existing law, is deemed public, and shall be made available to the public by
24 the board pursuant to Section 803.1.”

25 5. Section 2234 of the Code, states:

26 “The board shall take action against any licensee who is charged with unprofessional
27 conduct. In addition to other provisions of this article, unprofessional conduct includes, but
28 is not limited to, the following:

1 “(a) Violating or attempting to violate, directly or indirectly, assisting in or abetting
2 the violation of, or conspiring to violate any provision of this chapter.

3 “... ”

4 “(e) The commission of any act involving dishonesty or corruption which is
5 substantially related to the qualifications, functions, or duties of a physician and surgeon.

6 “(f) Any action or conduct which would have warranted the denial of a certificate.

7 “... ”

8 6. Section 2236 of the Code states:

9 “(a) The conviction of any offense substantially related to the qualifications,
10 functions, or duties of a physician and surgeon constitutes unprofessional conduct within
11 the meaning of this chapter [Chapter 5, the Medical Practice Act]. The record of conviction
12 shall be conclusive evidence only of the fact that the conviction occurred.

13 “... ”

14 “(c) ... The division¹ may inquire into the circumstances surrounding the commission
15 of a crime in order to fix the degree of discipline or to determine if the conviction is of an
16 offense substantially related to the qualifications, functions, or duties of a physician and
17 surgeon.

18 “(d) A plea or verdict of guilty or a conviction after a plea of nolo contendere is
19 deemed to be a conviction within the meaning of this section and Section 2236.1. The
20 record of conviction shall be conclusive evidence of the fact that the conviction occurred.”

21 7. Section 490 of the Code states:

22 “(a) In addition to any other action that a board is permitted to take against a licensee,
23 a board may suspend or revoke a license on the ground that the licensee has been convicted
24 of a crime, if the crime is substantially related to the qualifications, functions, or duties of
25 the business or profession for which the license was issued.

26 ¹ Section 2002 of the Code states: “Unless otherwise expressly provided, the term ‘board’
27 as used in this chapter means the Medical Board of California. As used in this chapter or any
28 other provision of law, ‘Division of Medical Quality’ and ‘Division of Licensing’ shall be deemed
to refer to the board.

1 “(b) Notwithstanding any other provision of law, a board may exercise any authority
2 to discipline a licensee for conviction of a crime that is independent of the authority granted
3 under subdivision (a) only if the crime is substantially related to the qualifications,
4 functions, or duties of the business or profession for which the licensee’s license was
5 issued.

6 “(c) A conviction within the meaning of this section means a plea or verdict of guilty
7 or a conviction following a plea of *nolo contendere*. Any action that a board is permitted to
8 take following the establishment of a conviction may be taken when the time for appeal has
9 elapsed, or the judgment of conviction has been affirmed on appeal, or when an order
10 granting probation is made suspending the imposition of sentence, irrespective of a
11 subsequent order under the provisions of Section 1203.4 of the Penal Code.

12 “...”

13 8. Section 493 of the Code states:

14 “Notwithstanding any other provision of law, in a proceeding conducted by a board
15 within the department pursuant to law to deny an application for a license or to suspend or
16 revoke a license or otherwise take disciplinary action against a person who holds a license,
17 upon the ground that the applicant or the licensee has been convicted of a crime
18 substantially related to the qualifications, functions, and duties of the licensee in question,
19 the record of conviction of the crime shall be conclusive evidence of the fact that the
20 conviction occurred, but only of that fact, and the board may inquire into the circumstances
21 surrounding the commission of the crime in order to fix the degree of discipline or to
22 determine if the conviction is substantially related to the qualifications, functions, and
23 duties of the licensee in question.

24 “As used in this section, ‘license’ includes ‘certificate,’ ‘permit,’ ‘authority,’ and
25 ‘registration.’”

26 9. Unprofessional conduct under Business and Professions Code section 2234 is conduct
27 which breaches the rules or ethical code of the medical profession, or conduct which is

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1 unbecoming to a member in good standing of the medical profession, and which demonstrates an
2 unfitness to practice medicine.²

3 10. California Code of Regulations, title 16, section 1360, states:

4 "For the purposes of denial, suspension or revocation of a license, certificate or permit
5 pursuant to Division 1.5 (commencing with Section 475) of the code, a crime or act shall be
6 considered to be substantially related to the qualifications, functions or duties of a person
7 holding a license, certificate or permit under the Medical Practice Act if to a substantial
8 degree it evidences present or potential unfitness of a person holding a license, certificate or
9 permit to perform the functions authorized by the license, certificate or permit in a manner
10 consistent with the public health, safety or welfare. Such crimes or acts shall include but
11 not be limited to the following: Violating or attempting to violate, directly or indirectly, or
12 assisting in or abetting the violation of, or conspiring to violate any provision of the
13 Medical Practice Act."

14 **FIRST CAUSE FOR DISCIPLINE**

15 **(Conviction of a Crime)**

16 11. Respondent John J. Martinez, M.D., is subject to disciplinary action under sections
17 2227 and 2234, as defined by section 2236, of the Code, in that he has been convicted of an
18 offense substantially related to the qualifications, functions, or duties of a physician and surgeon.
19 The circumstances are as follows:

20 12. On or about September 2, 2014, in the case entitled *The People of the State of*
21 *California vs. Juan Jesus Martinez aka John Jesus Martinez*, Superior Court of California,
22 County of Orange, Case No. 14HF2435, a felony complaint was filed against respondent. The
23 complaint charged respondent with violations of the following sections of the Penal Code:

- 24 a) count 1 – Penal Code section 18720 (Intent to Unlawfully Make Destructive Device, a
25 felony);

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27 _____
28 ² *Shea v. Board of Medical Examiners* (1978) 81 Cal.App.3d 564, 575.

- 1 b) count 2 – Penal Code section 18715, subdivision (a)(3) (Possession of Destructive
2 Device In/Near Private Habitation, a felony);
- 3 c) count 3 – Penal Code section 32625, subdivision (a) (Transport a Machine Gun, a
4 felony);
- 5 d) count 4 – Penal Code section 30605, subdivision (a) (Possession of an Assault
6 Weapon, a felony);
- 7 e) count 5 – Penal Code section 273.5, subdivision (a) (Domestic Battery with Corporal
8 Injury, a misdemeanor);
- 9 f) count 6 – Penal Code section 591.5 (Injuring a Wireless Device With Intent to
10 Prevent Crime Report, a misdemeanor).

11 13. On or about April 9, 2015, in Case No. 14HF2435, the following counts were added:

- 12 a) count 7 – Penal Code section 242 (Battery, a misdemeanor);
- 13 b) count 8 – Penal Code section 18710, subdivision (a) (Possession of a Destructive
14 Device, Other Than Fixed Ammunition of a Caliber Greater Than .60 caliber, as a
15 misdemeanor)

16 14. On or about April 9, 2015, respondent pled guilty to counts 6, 7 and 8, with the
17 remaining counts being dismissed. In his written plea explanation, respondent stated

18 “On Sept. 2, 2014 in O.C. [Orange County], I did unlawfully use force upon
19 [female person], I did unlawfully damage a wireless communication device with the
20 intent to prevent the user from notifying law enforcement, and I did possess a
21 destructive device, other than a firearm, of a caliber greater than .60 caliber.”

22 15. On or about April 9, 2015, respondent was sentenced on his plea of guilty, to three (3)
23 years’ formal probation on various terms and conditions, including that he violate no law; not
24 knowingly own, use, or possess any type of dangerous or deadly weapon for ten (10) years; pay
25 \$5,000 to the Orange County Sheriff’s Department Bomb Squad, and various other fines and fees;
26 serve one day in the Orange County jail; complete 200 hours community service; attend and
27 complete the Domestic Violence Batterers’ Treatment Program (52 week class). In addition,
28 respondent was served with a Protective Order and ordered to comply with all its terms.

- 1 16. The facts and circumstances underlying respondent's conviction are as follows:
- 2 a) On or about September 2, 2014, at approximately 0043 hours, deputies from the
- 3 Orange County Sheriff's Department were dispatched to respondent's home for a
- 4 reported domestic violence disturbance. A female person reported that respondent
- 5 had attacked her and choked her, and that respondent had firearms in a safe in his
- 6 garage.
- 7 b) Upon inspection of the garage, the deputies found multiple firearms, including nine
- 8 (9) assault weapons, one (1) machine gun, one (1) "zip gun," as well as illegal
- 9 explosives and explosive-making materials, including Star Targets³ and ETN,⁴ among
- 10 others.⁵
- 11 c) Other items collected by deputies from respondent's garage included three (3)
- 12 destructive devices,⁶ fourteen (14) practice bombs, a smoke grenade and three (3)
- 13 practice grenades, a M19 Bazooka/rocket launcher, approximately 1,790 cartridges of
- 14 non-tracer .223/5/56 ammunition, 2 x 20mm cannon cartridges, 2 x 12 gauge
- 15 cartridges, 11 x .44 magnum cartridges, 3 x .30 caliber carbine cartridges, 13 x .50
- 16 caliber cartridges, and approximately 693 x .223/5.56 tracer cartridges.
- 17 d) On the same date, an Emergency Protective Order was approved by a judge of the
- 18 Superior Court, Orange County in favor of the female person who made the initial
- 19 complaint.

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23 ³ Star Targets are commercially manufactured explosive targets.

24 ⁴ Erythritol tetranitrate is an explosive compound chemically similar to PETN
(Pentaerythritol tetranitrate).

25 ⁵ Various chemicals and other materials were found, along with the necessary equipment
26 to manufacture various explosives such as TATP, Black Powder, HPOM, and Ammonium Nitrate
Mixtures.

27 ⁶ As defined in California Penal Code section 16460, subdivision (a)(1), "[a]ny bomb,
28 grenade, explosive missile, or similar device or any launching device therefor."

1 SECOND CAUSE FOR DISCIPLINE

2 (General Unprofessional Conduct)

3 17. Respondent John J. Martinez, M.D., is further subject to disciplinary action under
4 sections 2227 and 2234 of the Code, in that he has engaged in conduct which breaches the rules or
5 ethical code of the medical profession, or conduct that is unbecoming to a member in good
6 standing of the medical profession, and which demonstrates an unfitness to practice medicine.

7 The circumstances are as follows:

8 18. Paragraphs 11 through 16, above, are hereby incorporated by reference and realleged
9 as if fully set forth herein.

10 19. On or about September 26, 2014, a webpage dedicated to providing the public with
11 information about respondent's practice as a physician and surgeon included several biographical
12 details in the "About me" section, including the following sentence:

13 "I attended Harvard University and Stanford Medical School for my medical training."

14 20. On or about October 23, 2015, at approximately 1:50 p.m., respondent emailed his
15 *curriculum vitae* to the Division of Investigation, Health Quality Investigation Unit (DOI-HQIU)
16 ("the first CV"). In this document, he listed under the heading "Education," the following
17 information:

18 "1979-1980 A.B. Harvard University
19 1980-1983 M.A. Stanford University
20 1980-1985 M.D. Stanford University"

21 21. At an interview conducted on or about October 23, 2015, by DOI-HQIU as part of its
22 investigation into this matter on behalf of the Board, respondent elaborated on his first CV by
23 explaining that he had attended Harvard as an undergraduate, from 1976 through 1980, for which
24 he had been awarded a Bachelor's degree. On the same date, respondent was asked to provide
25 DOI-HQIU with a copy of the degree he earned from Harvard University. Respondent undertook
26 to do so.

27 22. On or about December 8, 2015, through his counsel, respondent explained that his
28 first CV as detailed above was a draft which he had submitted "in haste," and forwarded a
"correct, updated copy" of his *curriculum vitae* to DOI-HQIU ("the second CV"). In this

1 document, under the heading "Education," the following was listed:

2 "1982 A.B. Stanford University
3 1985 M.D. Stanford University"

4 23. On or about September 11, 1986, respondent represented to the Board that he had
5 attended East Los Angeles College from September 1975 through June 1978, and thereafter the
6 University of Southern California, Los Angeles, from September 1978 through June 1980.

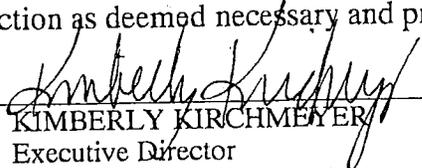
7 24.. During the course of the investigation by the DOI-HQIU into this matter, respondent
8 was repeatedly asked for details of his alleged studies at Harvard. He failed to provide any such
9 details.

10 **PRAYER**

11 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
12 and that following the hearing, the Medical Board of California issue a decision:

- 13 1. Revoking or suspending Physician's and Surgeon's Certificate Number G 58835,
14 issued to Respondent John J. Martinez, M.D.;
- 15 2. Revoking, suspending or denying approval of Respondent John J. Martinez, M.D.'s
16 authority to supervise physician assistants, pursuant to section 3527 of the Code;
- 17 3. Ordering Respondent John J. Martinez, M.D., if placed on probation, to pay the Board
18 the costs of probation monitoring; and
- 19 4. Taking such other and further action as deemed necessary and proper.

20 DATED: April 20, 2016


 KIMBERLY KIRCHMEYER
 Executive Director
 Medical Board of California
 Department of Consumer Affairs
 State of California
 Complainant